

UNITED STATES COURT OF APPEALS

JAN 26 2005

TENTH CIRCUIT

PATRICK FISHER
Clerk

LEONARD BALDAUF,

Plaintiff - Appellant,

v.

JOHN HYATT; ROBERT FAHEY,
Lieutenant, Fremont Corr. Facility;
GARY NEET, Warden; GLORIA
MASTERSON; CHARLES TAPPE,
Hearing Officer; RICHARD
MARTINEZ, Hearing Officer; BETTY
FULTON, Case Manager; DAVID
ROBERTS, Case Manager; PAUL
CARRERAS, Lieutenant; WILLIAM
ZALMAN, Director of Offender
Services; CONNIE DAVIS, Sergeant;
PATRICIA ROMERO, Mental Health
Case Worker; KEN MAESTAS,
Lieutenant; SGT. GARCIA;
LIEUTENANT CARR; DAVID
ARCHULETA, Sergeant; CHAD
NELSON, Officer; UNKNOWN
PROPERTY OFFICER; NARD
CLAAR, Asst. Warden; MAJOR
HARLAN,

Defendants - Appellees.

No. 03-1191
(D. Colorado)
(D.C. No. 01-RB-1315 (CBS))

ORDER AND JUDGMENT*

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court
(continued...)

Before **TACHA**, Chief Judge, **HENRY**, and **HARTZ**, Circuit Judges.

As the parties agree, the threshold issue before us is whether the *Heck* doctrine, *see Heck v. Humphrey*, 512 U.S. 477 (1994), bars jurisdiction in this case. Whether *Heck* applies depends on whether deprivation of good-time or earned-time credits necessarily affects the duration of a Colorado prisoner's confinement. The record is inadequate to resolve this matter, and both counsel at oral argument sought remand to the district court for development of the record. Accordingly, we REMAND to the district court for further proceedings concerning whether, under the *Heck* doctrine, the district court has jurisdiction to hear Mr. Baldauf's claims. If the court determines that it has jurisdiction, it should decide the merits, conducting any further proceedings that it deems necessary.

ENTERED FOR THE COURT

Harris L Hartz
Circuit Judge

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generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.